

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-6130

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TARVIS LEVITICUS DUNHAM,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia,
at Clarksburg. Irene M. Keeley, District Judge. (1:12-cr-00011-IMK-RWT-1; 1:14-cv-
00213-IMK-RWT)

Submitted: May 23, 2017

Decided: May 26, 2017

Before KING, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Tarvis Leviticus Dunham, Appellant Pro Se. Randolph John Bernard, OFFICE OF THE
UNITED STATES ATTORNEY, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tarvis Leviticus Dunham seeks to appeal the district court's order adopting the magistrate judge's recommendation and denying relief on his 28 U.S.C. § 2255 (2012) motion. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than 60 days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). “[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement.” *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on August 9, 2016. The notice of appeal was filed on January 17, 2017.* Because Dunham failed to file a timely notice of appeal, or to obtain an extension or reopening of the appeal period, we dismiss the appeal. Further, we deny Dunham's motion for a certificate of appealability. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266 (1988).